

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	
vs.)	No. 2:07-cv-02621-JPM-tmp
)	
786 SOUTH LLC, and)	
TRIPOLI II, INC.,)	
)	
Defendants.)	

ORDER DIRECTING PARTIES TO BRIEF ISSUE

This cause is set for a jury trial on April 26, 2010. On April 7, 2010, Plaintiff Equal Opportunity Employment Commission ("EEOC") and Defendant Tripoli II, Inc. submitted their Joint Pretrial Order.¹ The EEOC seeks to hold Tripoli II liable under a theory of successor liability for 786 South's alleged unlawful employment practices. The Joint Pretrial Order indicates that the EEOC and Tripoli II may understand the imposition of successor liability to be a jury question in whole or in part. The case law suggests that the imposition of successor liability is an equitable determination. See Cobb v. Contract Transport, Inc., 452 F.3d 543, 554 (6th Cir. 2006) (noting the factors that "courts" must "balance" in determining whether "successor

¹ Defendant 786 South LLC filed a notice of settlement on March 29, 2010. (Docket Entry ("D.E.") 84.)

liability is equitable in a particular case," and finding plaintiff's subsequent employer liable as a successor). The EEOC and Tripoli II shall submit briefing as to their respective positions on this issue no later than April 12, 2010.

IT IS SO ORDERED this 8th day of April, 2010.

/s/ Jon P. McCalla
JON P. McCALLA
CHIEF U.S. DISTRICT JUDGE